

**REMARKS**

***Amendment summary***

Claim 1 is amended to incorporate Claim 5 and to recite that the non-linoleum material is different from the raw materials used for the production of a linoleum mixture and that the non-linoleum material is a metallic material and/or a pigment that differs from the pigment(s) optionally used for coloring the linoleum mixture. Similar amendments are made to Claims 2 and 11. Support for these amendments may be found, e.g., on at least page 2, lines 25-28 and the second full paragraph on page 3 of the present specification. Claim 5 is canceled.

Claims 2 and 11 have been further amended for the purposes of antecedent basis.

Claims 3-4 and 12 are amended for grammatical purposes.

Claims 25 and 27 are canceled.

No new matter is added by this Amendment, and Applicants respectfully submit that entry of this Amendment is proper.

***Status of the claims***

Claims 2, 11, 25, and 27 have been rejected under 35 U.S.C. § 112 as allegedly failing to have proper antecedent basis. In addition, Claims 1-3, 5, 8, 17, and 23 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Markmann et al. (DE 199 15 868) (hereinafter “Markmann”). Claims 9 and 25 have also been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Markmann. Further, Claims 4, 10, 18, 24, 26, and 28 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Markmann in view of Egleson (U.S. Patent No. 1,691,708). Claim 27 has also been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Markmann in view of Egleson. Additionally,

Claims 6, 7, 19, and 21 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Markmann in view of Humphreys et al. (U.S. Patent No. 1,873,587) (hereinafter “Humphreys”). Also, Claims 20 and 22 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Markmann and Egleson in view of Humphreys. Claims 11 and 12 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Markmann in view of Stroppiana (U.S. Patent No. 5,217,554). Finally, Claims 13 and 14 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Markmann in view of Stroppiana and further in view of Humphreys.

***Response to rejections under 35 U.S.C. § 112***

Claims 2, 11, 25, and 27 have been rejected under 35 U.S.C. § 112 as allegedly failing to have proper antecedent basis.

With respect to Claims 2 and 11, Applicants note that these claims have been amended to address the Examiner’s position. With respect to Claims 25 and 27, Applicants note that these claims have been canceled, rendering their rejections moot.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the § 112 rejection of these claims.

***Response to rejections based on Markmann***

Applicants respectfully traverse the rejections based on Markmann on the basis that neither Markmann nor any of the other cited references discloses or suggests the presently recited non-linoleum material that is different from the raw materials used for the production of a

linoleum mixture and which is a metallic material and/or a pigment that differs from the pigment(s) optionally used for coloring the linoleum mixture.

With respect to Markmann (the English language equivalent), Markmann merely describes that:

The composition of the particles can be identical to or different from the composition of the rolled linoleum sheet. Preferably, the particles have a *similar composition* to that of the rolled linoleum sheet, except for their pigmentation. Particularly preferably, the particles are *drier* than the *linoleum sheet*, i.e., *contain less linoleum cement* to improve their dispersibility. Preferably, the mixed mass particles are dyed at least one color, which contrasts with the color of the rolled linoleum sheet. (emphasis added)

Furthermore, Markmann's Claim 1 merely describes:

A process for producing a patterned flexible linoleum sheet material comprising the steps of: dispersing at least one type of *linoleum* particles onto at least one side of a rolled linoleum sheet; and pressing the *linoleum* particles into the rolled linoleum sheet such that the *linoleum* particles are not substantially distorted; cutting the rolled linoleum sheet; rotating the rolled linoleum sheet 90°; stacking the rolled linoleum sheet into a sheet stack; and rolling the sheet stack into a pattern providing sheet; wherein the *linoleum* particles comprise a *smaller proportion of linoleum cement than the rolled linoleum* sheet; wherein the *linoleum* particles are present in the form of a granular dispersion; and wherein the *linoleum* particles are unicolored particles, multicolored particles, or combinations thereof. (emphasis added)

In contrast to Markmann, the presently claimed invention recites a non-linoleum material *which is different from the raw materials used for the production of a linoleum mixture*, and also recites that the non-linoleum material is a *metallic material and/or a pigment that differs from the pigment(s) optionally used for coloring the linoleum mixture*. Markmann does not disclose or suggest these aspects of the presently claimed invention, and therefore does not anticipate these claims.

With respect to the obviousness rejections based on Markmann, the presently claimed invention is directed to a *non*-linoleum material which is different from the raw materials used for the production of a linoleum mixture, to be processed with a green *linoleum*. On the other hand, Markmann is directed to a *linoleum* material to be processed with a green *linoleum* which, naturally, results in completely different technical problems to be solved, and the respective surprising and advantageous results evolving therefrom. There is no teaching or suggestion in Markmann which would render obvious the presently claimed invention.

Egleson, Humphreys, and Stroppiana also fail to remedy this deficiency in Markmann. Egleson merely describes a linoleum floor covering having embossed or depressed areas forming a pattern thereon, a multiplicity of light-reflecting surfaces formed within said depressed areas, and a transparent coating material filling such depressed areas (see, e.g., claim 1). Egleson is therefore not relevant to the presently claimed invention. Humphreys merely describes a linoleum mixture including lustrous metallic particles, applied to a backing (see, e.g., claim 1). Accordingly, Humphreys also does not describe or suggest the presently claimed invention. Finally, Stroppiana merely describes a method of forming coverings with a decorative surface effect, including the steps of: providing a continuous substrate, subjecting the continuous substrate to an operation resulting in formation of multiple shavings and a continuous gathering substrate, collecting the shavings on said gathering substrate, and subjecting the shavings to a compression operation against said gathering substrate so as to produce a covering with the decorative surface effect comprising at least one of grain effects, marbling and veining (see, e.g., claim 1). Thus, not only does Stroppiana fail to remedy the deficiencies of Markman, but it also is nonanalogous art because it relates to a completely different technical problem and its respective solution.

In view of the above, Applicants respectfully submit that the presently claimed invention is not anticipated or rendered obvious by the cited references. Accordingly, the reconsideration and withdrawal of the §§ 102 and 103 rejections based on Markmann is respectfully requested.

***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/ Travis B. Ribar /

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: January 14, 2010

---

Travis B. Ribar  
Registration No. 61,446